UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,645	08/07/2001	Henry E. Argasinski	9685-000001	1142

27572   7590   07/19/2007
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ART UNIT	PAPER NUMBER
2153	

MAIL DATE	DELIVERY MODE
07/19/2007	PAPER

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PTOL-90A (Rev. 04/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

Application Number: 09/923,645
Filing Date: August 07, 2001
Appellant(s): ARGASINSKI, HENRY E.

JUL 1 9 2007

Technology Center 2100

Michael Malinzak
For Appellant

SUPPLEMENTAL EXAMINER'S ANSWER

This is in response to the appeal brief filed on January 03, 2007

appealing from the Office action mailed May 3, 2006.

Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

Status of Claims

The statement of the status of the claims contained in the brief is correct.

Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

Evidence Relied Upon   ⌐

U.S. Pub. No (20010034661) Ferreira 10-2001.

GROUND OF REJECTION

The following ground(s) of rejection are applicable to the

appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs

of 35 U.S.C. 102 that form the basis for the rejections under

this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the appellant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the appellant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 2-9, 11-13 and 15-17 and 21-23 are rejected under 35

U.S.C. 102(e) as being anticipated by Ferreira USPUB No.

(20010034661).

As per claim 21, Ferreira teaches a method comprising:

Transposing an actual image of group of adjacent storefront

along a city block as a navigable image within an internet site

(user-navigable digitized image of actual location is provided

to a user ¶ 0014-0015, see figs. 4-5); allowing a user to scroll

a point of view of said navigable image left or right within

said internet site by moving said point of view of said

navigable image in a direction along said city block while

maintaining said point of view directed toward said group of

adjacent storefronts (a user interface may be provided by the

virtual city application of the present invention, a user

interface including a user-navigable virtual representation of

an actual location, such as a city is provided. The virtual

representation may take the form of digitized images of the

actual location that may be spliced together to allow

navigation. For example, a user may navigate from one adjacent

city block to another by selecting a horizon or any other

suitable element of the display, such as icons. Upon selection

of a storefront, the user may be directed to a virtual

representation of the interior of the store in which the user

may navigate and view actual items for sale as though he or she

were in a real store ¶ 0 014-0015; ¶ 0071-0075 and ¶ 0101- Page

5 0102, see figs. 4-5]; and

        providing customer selectable links within said navigable

image [selected links provide more information on the item of

interest ¶ 0015-0016 and ¶ 0057-0058].

As per claims 22 and 23, Ferreira teaches a method, comprising:

scrolling images of an actual location as navigable image on a

website (¶ 0014-0015; ¶ 0056-0058 and 4 0101-0102, see figs. 4-

5); navigating said navigable image in a left or right manner by

communication commands from a remote computer to a server

hosting said website (users 122 access data server 114 through

network 120 450. See fig. 2; 40071-0072 and 4 0101- 0102) that

moves a point of view of said navigable image in a direction

along actual store window displays while maintaining said point

of view directed toward said actual store window displays to

give a viewer an impression of walking down a street or

strolling through a mall while viewing said actual store window

displays (a user interface may be provided by the virtual city

application of the present invention. A user interface including

a user-navigable virtual representation of an actual location,

such as a city is provided. The virtual representation may take

the form of digitized images of the actual location that may be

spliced together to allow navigation. For example, a user may

navigate from one adjacent city block to another by selecting a

horizon or any other suitable element of the display, such as

icons. Upon selection of a storefront, the user may be directed

to a virtual representation of the interior of the store in

which the user may navigate and view actual items for sale as

though he or she were in a real store (Abstract; ¶ 0014-0015; ¶

0071-0075 and ¶ 0101-0102, see figs. 4-5].

As per claim 2, Ferreira teaches the method of claim 21, further

comprising the steps of: transposing an actual image of a

interior of a particular retailer of said group of adjacent

storefronts as an alternative navigable image within said

internet site [user-navigable digitized image Of actual location

is provided to a user ¶ 0014-0015 and ¶ 0056-0058, see fig. 4];

and providing customer selectable links within said alternative

navigable image for providing detailed information of a said

particular retailer [¶ 0014-0015 and ¶ 0056-0058, see figs. 4-

5].

As per claim 3, Ferreira teaches the method of claim 21, further

comprising the steps of: providing retailer information to a

remote customer of claim navigable image for providing detailed

information of particular goods of a particular retailer [¶

0056-0058, see fig. 4].

As per claim 4, Ferreira teaches the method of claim 1, further comprising the steps of: providing customer selectable links within said alternative navigable image for providing detailed information of particular goods of said particular retailer [¶ 0056-0057, see fig. 4].

As per claim 5, Ferreira teaches the method of claim 21, further comprising the steps of: wherein said group of adjacent storefronts is a downtown area of a community [¶ 0056-0058, see fig. 4].

As per claim 6, Ferreira teaches the method of claim 21, further comprising the steps of: wherein said group of adjacent storefronts is a shopping center [¶ 0056-0058, see fig. 4].

As per claim 7, Ferreira teaches the method of claim 21, further comprising the steps of: wherein said group of adjacent storefronts is a strip mall [¶ 0056-0058, see fig. 4].

As per claim 8, Ferreira teaches the method of claim 21, further comprising the steps of: providing purchasing interface whereby the remote customer may arrange for remote purchase of one of goods and services [¶ 0045 and ¶ 0056].

As per claim 9, Ferreira teaches the method of claim 2, further

comprising providing a customer perspective of said alternative

navigable image and allowing a customer to virtually walk

through said interior of said particular retailer of said retail

environment (see figs. 4-5 and 16. ¶ 0014-0015; ¶ 0071-0075;

¶093, and 0101-0102].

As per claim 11 and 15, Ferreira teaches the invention, further

comprising transposing actual images of said at least one

storefront of said retail environment as said navigable image

[user-navigable digitized image of actual location is provided

to a user ¶ 0014-0015; ¶ 0071-0075; ¶ 093 and 0101-0102].

As per claim 12-13 and 16-17, Ferreira teaches the invention,

wherein said links provide detail information for goods,

services or a business including purchase for goods or services

[¶ 0045 and ¶0056].

Response to Arguments

The appellant's arguments raised in the Appeal Brief have been

considered but are not deemed persuasive.

Regarding Claim 2-9,11-13,15-17, and 21-23:

In the last complete paragraph on page 7 of the Appeal Brief,
the Appellants argue that "The Ferreira reference does not teach
or suggest scrolling a point of view of a navigable image left
or right within an internet site by moving the point of view in
a direction along a city block while maintaining the point of
view directed toward a group of adjacent storefronts of the city
block. Rather, Ferreira discloses simple rotational movement of
a camera around a stationary point." (Page 7, last paragraph to
page 8, line 1).

Appellant argues in section A page 8 "to the extent the
utility application includes new matter not disclosed in the
provisional application, Appellant pre-dates the new matter."

Examiner respectfully disagrees with appellant's assessment of
the provisional application. Appellant did not point out clearly
what he considers as a new matter in section A of his arguments.
The appellant's arguments are vague and ambiguous.
Nevertheless, the examiner has made his best attempt at replying
to the arguments. The Examiner contends that the provisional
application shows all of the positively claimed limitations, and

thus no subject matter not disclosed in the provisional

application has been used. Specifically, substantial

limitations of the independent claims are unmistakably disclosed

in the provisional application. For example, the provisional

application is entitled "A VIRTUAL REPRESENTATION OF A REAL

CITY" page 1. The provisional application further states, "[t]he

invention is a localized, city-by-city navigation system that

uses digital imagery and sound to recreate in exacting detail a

virtual reality simulacrum of each real world city." Page 1, 1st

paragraph. Furthermore, the provisional application explicitly

discloses, "[i]n the preferred embodiments of the invention,

every VirtuaCity will be a digital replica of a real-world city,

painstakingly reproduced onto the Internet for everyone-both in

that community and around the world- to explore, browse, and

mingle in." (Page 1, second paragraph. See also fig. 1 and 2).

Additionally, the provisional application teaches, "[w]eb-

surfers will be able to use their mouse (or the arrows on their

keyboard) to move the camera around. Simply clicking on the

image and holding down either the left or fight mouse button

will alter the camera's perspective and create the appearance of

movement. Camera functionality will include: pan left, pan

right, pan up, pan down, or any combination thereof, and zoom in

and out." Page 5, 2nd paragraph. Therefore, it should be clear

that not only does the provisional application provide

sufficient basis for rejecting the independent claims, it also

provides ample unambiguous and clear evidence for rejection of

all appealed claims. It is clear that the provisional

application teaches the foundation of what is included in US.

PUB. Number 2001/0034661 of Ferreira such navigating an image

and moving it sideways or up and down or any combination

thereof, and zooming. Consequently, the Examiner maintains that

the Declaration received on January 24,2005 under 37 CFR 1.131

is ineffective to overcome the Ferreira reference (US. Pat. PUB.

No. 2001/0034661) since the effective date of Ferreira is

February 14, 2000 according to the provisional application No.

60/182282.

In response to the appellant's arguments that Ferreira does

not teach or suggest scrolling a point of view of a navigable

image left or right within an internet site by moving the point

of view in a direction along a city block while maintaining the

point of view directed toward a group of adjacent storefronts of

the city block (repeated in sections B, C and D; Page 9, first

paragraph, page 12 last paragraph, page 14 second paragraph and

page 16 first paragraph), the examiner maintains that Ferreira

and its provisional application irrefutably establish the

contrary. As was previously stated, Ferreira teaches that

"every VirtuaCity will be a digital replica of a real-world

city, painstakingly reproduced onto the Internet for everyone-

both in that community and around the world- to explore, browse,

and mingle in." (emphasis added, Page 1, second paragraph. See

also fig. 1 and 2). This includes clicking on an image and

holding down either the left or right mouse button that alters

the camera's perspective and create appearance of movement

(emphasis added). "The perspective of the camera will appear to

move down the street in a continuous fashion and the "street

horizon" hyperlinks will become unnecessary. Cars will move down

the street, and so will pedestrians." (Page 31, first paragraph

of the provisional application. See also paragraph 0080 of the

utility application). Therefore, it is clearly evident that the

movement of the camera is not one that is on a rotation upon a

single axis. Rather, moving and mingling amongst the community

and pedestrians can only occur in accordance with appellant's

claimed limitations.

Furthermore, the examiner would like to clarify that

Appellants argument of "allowing a user to scroll a point of

view of said navigable image left or right within said internet

site by moving said point of view of said navigable image in a

direction along said city block " is based on appellant's

drawing of Fig. 2 navigational button 41 which shows "GO LEFT 1

BLOCK" AND "GO RIGHT 1 BLOCK". In essence, when a consumer

clicks on "GO LEFT 1 BLOCK" of button 41 via a keyboard or a

mouse, it will move one block left at a point of view of the

consumer as he navigates the site (see paragraph 15 and 17 of

the Appellant's specification). In contrast, Ferreira teaches a

more advanced technology in which "[t]he virtual city

application may provide the user with the ability to navigate

within the virtual city block image. For example, the user may

be given the ability to use a mouse (or the cursor keys on a

keyboard) to move within the virtual city block image. This

feature is particularly useful when the virtual city block image

is at 180.degree. image or a 360.degree. image because the user

may be given the ability to navigate the city block to a higher

degree using the virtual city block image. The navigation may be

accomplished by clicking on the virtual city block image and

holding down either the left or right mouse button. This may

alter the perspective and create the appearance of movement"

(Paragraph 0071). Therefore, it is clear that by clicking a

virtual city block image and holding down either the left or

right mouse button alters the perspective of the viewer and

creates the appearance of movement towards the city block image

(adjacent store fronts for example). "The navigation may take place in a smooth and continuous manner, giving the user the impression of actual movement." (Paragraph 0071 and 0101). With regard to claim 23 and dependent claims 15-17 in section D, Ferreira teaches "For example, a user may navigate from one adjacent city block to another by selecting a horizon or any other suitable element of the display, such as icons ... upon selection of a storefront, the user may be directed to a virtual representation of the interior of the store in which the user may navigate and view actual items for sale as though he or she were in a real store (¶ 0014-0015; ¶ 0071-0075 and ¶ 0101-0102, see figs. 4-5]. Ferreira's use of a mouse (or the cursor keys on a keyboard) by holding down either the left or right mouse button that gives the user the ability to navigate the city block and move within the virtual city block image is no different than the Appellant's use of Keyboard 22 to click on "GO LEFT 1 BLOCK" of button 41 of fig. 2 (see page 5 of Appellant's argument of the Appeal Brief. Thus, it is maintained that Ferreira meets the scope of the invention as currently claimed.
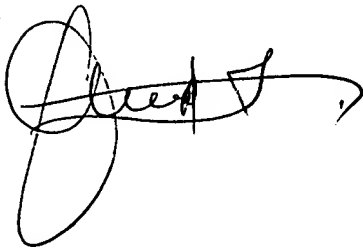
Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,
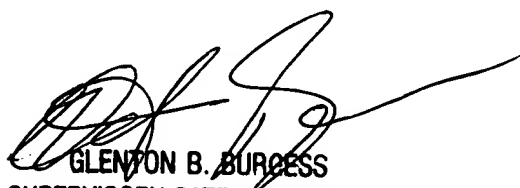
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July 09, 2007

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